

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-06- 28,728

In re: 907 6th Street, S.W. Unit 207-C

Ward Six (6)

UNITED DOMINION MANAGEMENT COMPANY
Housing Provider/Appellant

v.

BRIAN HINMAN
Tenant/Appellee

**ORDER ON THE MOTION OF THE APARTMENT AND OFFICE BUILDING
ASSOCIATION OF METROPOLITAN WASHINGTON FOR LEAVE TO
APPEAR AS AMICUS CURIAE WITH RESPECT TO WHETHER THE
STATUTE OF LIMITATIONS IS INAPPLICABLE TO RENT CEILING
ADJUSTMENTS THAT WERE FILED MORE THAN THREE YEARS BEFORE
THE FILING OF A TENANT PETITION.**

January 8, 2008

YOUNG, CHAIRMAN. On November 8, 2007, the Apartment and Office Building Association of Metropolitan Washington (AOBA) filed a motion for leave to appear as amicus curiae. AOBA stated the motion was filed:

[I]n order to assist this Commission in analyzing whether the Final Order in [Hinman] and the Commission's decision in Grant v. Gelman Management Co., TP17,995 (RHC Feb. 24, 2006)¹ are contrary to the statute of limitations under the rent control law and, indeed, contrary to the Due Process Clause, Amendment V, to the United States Constitution.

Motion at 1. The motion sets forth AOBA's position in the instant case as follows:

There is no basis for concluding, as this Commission did in Grant, that the decision of the Court of Appeals in Sawyer Property Management, Inc. v. Rental Housing Commission, 877 A.2d 96 (D.C. 2005) means that the statute of limitations does not apply where a rent ceiling filing is filed beyond the thirty day filing period. ... The Court's decision in Sawyer did nothing to change that, and Grant's holding to the contrary is wrong and should be overruled.

Motion at 2-3

¹ The decision is properly cited as, Grant v. Gelman Mgmt Co., TP27,995 (RHC Feb. 24, 2006).

In its motion, AOBA argues that the Commission's decision in Grant v. Gelman Mgmt Co., TP27,995 (RHC Feb. 24, 2006), was wrongly decided and should be reversed. The Commission's decision in Grant, while cited by the Administrative Law Judge's decision in Hinman, is not the subject of the instant appeal. The decision in Grant, supra, was made on an evidentiary record independent of the instant case. The Commission's decision in Grant reversed and remanded the decision of the Rent Administrator and is not now under the Commission's jurisdiction.

THE COMMISSION'S ORDER

The Commission does not have a rule for amicus curiae briefs. However, when the Commission's rules are silent on a procedural issue, the Commission refers to the rules of the District of Columbia Court of Appeals (DCCA) for guidance. Radwan v. District of Columbia Rental Hous. Comm'n, 683 A.2d 478 (D.C. 1996); 14 DCMR § 3828.1 (1998). The DCCA rule, D. C. Ct. App. R. 29, governs amicus curiae briefs. That rule requires the identity of the interest of the applicant and the reasons why a brief of an amicus curiae is desirable. AOBA met that requirement by stating its interest was on behalf of the Housing Providers, who are its members, and gave reasons for filing an amicus curiae brief as the instant case affects its members.

The court's rule also states that the amicus curiae will not be permitted to participate in oral argument, except by leave of the Court. AOBA has not requested that it participate in oral argument at the Commission's hearings in the listed appeal case; nevertheless, AOBA will not be permitted to participate in the Commission's hearings on the appeal involved in this order.

The Commission grants the motion, however, the amicus curiae brief should be limited to the evidentiary record upon which the ALJ made his decision in Hinman.

SO ORDERED.

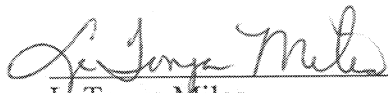

RONALD A. YOUNG, CHAIRMAN

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order on the Motion of AOBA for Leave to Appear as Amicus Curiae in RH-TP-06- 28,728, was mailed by priority mail, with confirmation of delivery, postage prepaid, this 8th day of **January**, 2008 to:

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